

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURTIS LEROY BROWN,

Plaintiff,

Case No. 1:07-cv-764

v.

Honorable Wendell A. Miles

MICHIGAN DEPARTMENT OF
CORRECTIONS PAROLE BOARD,

Defendant.

ORDER

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. By order entered August 14, 2007, the Court granted Plaintiff's request to proceed *in forma pauperis* and required Plaintiff to pay an initial partial filing fee of \$6.20 pursuant to 28 U.S.C. § 1915(b)(1). The Court ordered that the initial partial filing fee be paid within thirty days, and warned Plaintiff that his case would be dismissed without prejudice should he fail to pay. More than thirty days later, on October 2, 2007, the Court dismissed Plaintiff's action without prejudice because he had failed to pay the fee.

This matter now is before the Court upon Plaintiff's motion for reconsideration of the Court's order of dismissal (docket #11). In his motion, Plaintiff claims that he prepared a disbursement authorization for the initial partial filing fee and submitted it to prison officials. The Court has learned that Plaintiff paid \$10.00 on September 6, 2007, but due to a clerical error in the Clerk's Office, the payment was not recorded on the docket record until October 25, 2007. As a result, the Court was not aware of the payment when it dismissed Plaintiff's action on

October 2, 2007. Because Plaintiff's case was dismissed in error, Plaintiff's motion will be granted and his case re-opened for further proceedings in this Court. Therefore:

IT IS ORDERED that Plaintiff's motion for reconsideration of the Court's order of dismissal (docket #11) is GRANTED and Plaintiff's action is re-opened for further proceedings.

Dated: November 8, 2007

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge